IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

W.P. No. 1577 (S/S) OF 2004

Ashok Kumar, son of Sri Tunda Ram, R/o 36/6 I.R.I. Colony, District Hardwar. .....Petitioner.

Versus

1. State of Uttaranchal, through its Secretary, Sehri Vikas & Avas Anubhag, Uttaranchal Shashan, District Dehradun.
2. Chief Town Planner/Officer Incharge, Town and Country Planning Department, District Dehradun.
3. Prescribed Authority, Regulated Area, Roorkee, District Hardwar, District Magistrate, District Hardwar.

.....Respondents.

Shri Sharad Sharma, learned counsel for the petitioner.
Learned Standing Counsel for the respondents.

Dated:05.05.2005

Hon'ble Rajesh Tandon, J.

By the present writ petition the petitioner has prayed for quashing of the order dated 15th December, 2004 passed by the Additional Secretary (Annexure No. 5 to the Writ Petition) by which the order for relieving the petitioner has been stayed for time being. The second prayer made by the petitioner was that by way of interim mandamus, respondents may be directed to permit the petitioner's joining in pursuance of the order dated 10.12.2004.

So far as the prayer no. 1 is concerned, Sri Paresh Tripathi, Standing Counsel for the State of Uttaranchal has submitted that in view of the subsequent facts, petitioner has been transferred to Uttar Kashi. The prayer no. 1 regarding the quashing of the order-dated 15.12.2004 has become infructuous and is misconceived and no relief can be granted.

Sri Sharad Sharma, learned counsel for the petitioner has submitted that at present he is not pressing the prayer no. 1 and he may be permitted to delete the same.

Heard learned counsel for both the parties.

Briefly stated, the petitioner was appointed with the respondents on 11th November, 1983 as a Junior Engineer Avas Vikas Anubhag, Uttaranchal Shasan. He was suspended on 3rd August, 2004 and later on 10th December, 2004 by order of Appar Sachiv, the petitioner was reinstated and his suspension order dated 3rd August, 2004 was recalled.

In the meantime, further on 15th December, 2004 so far as the relieving of the petitioner to the Uttar Pradesh is concerned, the same was kept in abeyance by the Apar Sahive, Uttaranchal Shasan.

On 30th December, 2004, the petitioner was transferred to Uttar Kashi as a Junior Engineer.

The short submission of the learned counsel for the petitioner is that the petitioner was suspended on 3rd August, 2004 while he was working at Roorkee, his suspension order having been revoked and further his relieving order to the State of Uttar Pradesh having been kept in abeyance and therefore, in pursuance of the order dated 30th December, 2004 he is entitled to join at Uttar Kashi.

In view of the subsequent event mentioned in the application no. 2003 of 2005, the respondent no. 3 Prescribed Authority, Regulated Area, Roorkee, District Haridwar is directed to consider the relieving of the petitioner from the Roorkee so as to permit him to join at Uttar Kashi at the transferred place.

The petitioner is permitted to make a representation to the respondent no. 3., who shall pass appropriate orders within

a period of the three weeks from the date of filing of the certified copy of the order.

Learned Standing Counsel has no objection with the aforesaid transfer as according to the subsequent facts, the petitioner having been transferred at Uttar Kashi.

In view of the aforesaid observations, writ petition is disposed of.

(Rajesh Tandon, J.)

05.05.2005

Rathour